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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

MERRIL et al.

Serial Number: 08/879,139

Group Art Unit: 1643

Filed: June 19, 1997

Examiner: D. Wortman

For: ANTIBACTERIAL THERAPY WITH BACTERIOPHAGE GENOTYPICALLY
MODIFIED TO DELAY INACTIVATION BY THE HOST DEFENSE SYSTEM



DECLARATION

Assistant Commissioner for Patents
Washington, D.C. 20231

June 21, 1999

Sir:

I, Debbie L. Orrison, a citizen of the United States, hereby declare and state:

1. I was the docket clerk at the firm of Nikaido, Marmelstein, Murray & Oram LLP
(referred to herein as the firm) as of October 2, 1998.

2. As the docket clerk at the firm at that time, my duties included following the
docketing and USPTO filing procedures for the firm, including reviewing all mail received
from the USPTO and docketing all due dates created by that mail in the Master Docket,
which I maintained in the manner described in the Appendix attached to the Declaration
by Mr. George E. Oram, Jr.

3. Upon examining the Master Docket after receiving the facsimile transmission of
June 15, 1999 from Donna C. Wortman, Ph.D. in reference to the above application, I
noted that the Master Docket contains no notation of any due date for a response to the

Office Action in the above application on January 2, 1999 (i.e., three months from the alleged date of mailing of the Office Action in the above application). ATTACHMENT 1 is a true and correct copy of the printout of the Master Docket for January 2, 1999.

4. I have been instructed on the importance of ensuring that the Master Docket reflect every due date established by mail received by the firm from the USPTO.

5. I am not aware of any occurrence where an Office Action (in an application where the applicant has not instructed us to abandon the application) was mailed to the firm and received by the firm, but was not docketed in the Master Docket.

6. Based on the above, it is my belief that the October 2, 1998 Office Action concerning the above application was never received by the firm.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Debbie L. Orrison

6/18/99
Date

Enclosure:

ATTACHMENT 1

Wednesday, December 30, 1998

Due Date List By Date

Page: 9

From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
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01-Jan-1999	Reason Filing Due	01-Jan-1999	Reason Filing	00021-8034	US	CJ	ORD	08/901940	29-Jul-1997
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Final

Status: Granted

GEO

02-Jan-1999	N/A E-1	02-Sep-1998	NOT. OF APPEAL	00021-4049	US	1	RJB	00021	08/901940	29-Jul-1997
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Due Date

Status: PENDING

Verdand 8
2-2-99

02-Jan-1999	FINAL E-1	02-Sep-1998	US-FINAL	00021-4049	US	1	RJB	00021	08/901940	29-Jul-1997
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Due Date

Status: PENDING

✓ F 12/31 per EJB

02-Jan-1999	ISSUE FEE DUE	07-Oct-1998	US-Allowance	00021-7052	US	EME	00021	08/956080	22-Oct-1997
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Due Date

Status: PENDING

Filed 1/4/99

02-Jan-1999	Foreign Filing Reminder	02-Jul-1998	Foreign Filing	00021-8034	US	CMM	00021	09/109899	02-Jul-1998
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Due Date

Status: Pending

✓ N

Wednesday, December 30, 1998

Due Date List By Date

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From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
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02-Jan-1999	STATUS CK Follow Up D	02-Jul-1998	STATUS CK	00186-6024	US	CMM	00186	08/775876	02-Jan-1997
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Due Date

Status: PENDING

02-Jan-1999	Foreign Filing Reminder	02-Jul-1998	Foreign Filing	00186-8023	US	CMM	00186	09/10898	02-Jul-1998
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Due Date

Status: Pending

02-Jan-1999	3 MON RESPONSE	02-Oct-1998	US-3MON ACTION	00353-6037	US	DHG	00353	08/768098	16-Dec-1996
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Due Date

Status: PENDING

02-Jan-1999	DRAWINGS DUE	02-Nov-1998	DRAWINGS DUE	00353-7039	US	DHG	00353	08/976575	24-Nov-1997
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Due Date

Status: PENDING

02-Jan-1999	Foreign Filing Reminder	02-Jul-1998	Foreign Filing	00353-8030	US	CMM	00353	09/709900	02-Jul-1998
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Due Date

Status: Pending

Wednesday, December 30, 1998

Due Date List By Date

Page: 11

From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
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02-Jan-1999	Foreign Filing Reminder	02-Jul-1998	Foreign Filing	00353-8031	US	CMM	00353	09/109897	02-Jul-1998
Due Date									
Status: Pending									

02-Jan-1999	3 MON RESPONSE	02-Oct-1998	US-3MON.	00514-7002	US	JLH	00514	08/76839	02-Apr-1997
Due Date									
Status: PENDING									

02-Jan-1999	6 MON FINAL	02-Jul-1998	US-3MON.	00518-7005	US	JLH	00518	08/84071	24-Apr-1997
Final									
Status: PENDING									

02-Jan-1999	3 MON RESPONSE	02-Oct-1998	US-3MON.	00564-7003	US	MCK	00564	08/776188	24-Jan-1997
Due Date									
Status: PENDING									

02-Jan-1999	FILEAPPLN.-	28-Dec-1998	NEW	00564-8030	US	RBM	00564		
Reminder									
Status: Unified									

ext 117 ✓

✓ 1-1231

✓ 114

✓ ext 2/269

✓ 11

Wednesday, December 30, 1998

Due Date List By Date

Page:

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From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
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02-Jan-1999	Information Disclosure Sum	02-Oct-1998	Information Disclosure Summt	00725-8027	US	DTN	00725	09/165299	02-Oct-1998
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Status: Pending

02-Jan-1999	1-MON-EXTENSION	02-Sep-1998	US-3MGN	00734-6007	US	GEO	00734	08/726299	02-Oct-1996
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Due Date

ACTION

Status: PENDING

02-Jan-1999	FILEAPPLN.-	28-Dec-1998	NEW	00813-8018	US	DTN	00813		
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Reminder

APPLICATION

ORD

Status: Unfiled

02-Jan-1999	ISSUE FEE DUE	07-Oct-1998	US-Allowance	01204-8010	US	RBM	01204	09/121130	23-Jul-1998
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Due Date

ORD

Status: Pending

02-Jan-1999	PYMT OF GRANT & REN	03-Nov-1998	GRANT AND	01580-5004	RU	RBM	01580	95110932.04	07-Mar-1995
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Reminder

RENEWAL FEES

LMB ORD

Status: PENDING

Remarks: Final 3.3.99. FA wants our instrucs by 2.22.99.

Wednesday, December 30, 1998

Due Date List By Date

Page: 13

From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
02-Jan-1999	Information Disclosure Stmt	02-Oct-1998	Information Disclosure Stmt	01580-8009	US	RBM	01580 ORD		02-Oct-1998
Status:	Pending								
02-Jan-1999	ISSUE FEE DUE	07-Oct-1998	US-Allowance	01614-5018	US	MCK	01614 ORD	08/454186	15-Jun-1995
Due Date									
Status:	PENDING								
02-Jan-1999	6 MON FINAL	02-Jul-1998	US-3MON. ACTION	01614-7023	US	KLW	01614 ORD	08/870383	06-Jun-1997
Final									
Status:	PENDING								
02-Jan-1999	6 MON FINAL	02-Jul-1998	US-3MON. ACTION	01614-7088	US	MCK	01614 ORD	08/973877	07-Jan-1998
Final									
Status:	PENDING								
02-Jan-1999	3 MON RESPONSE	02-Oct-1998	US-3MON. ACTION	01614-7102	US	RJB	01614 CON	08/998888	19-Dec-1997
Due Date									
Status:	PENDING								

✓ EOT + 1/4 per CEO/ESM - 20

✓ actual

✓ 1/5-final
date 1/7/99

✓ + 12/31/98

✓ A

Wednesday, December 30, 1998

Due Date List By Date

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From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
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02-Jan-1999	ANNUITY.FEE.	24-Feb-1998	ANNUITY FEE	01622-3007	GB	RBM	01622	8305104	24-Feb-1983
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Reminder

Status: ISSUED

02-Jan-1999	SEND LTR TO CLIENT- Reminder	23-Nov-1998	FRGN ANALYSIS	02241-3016	FI	SNK	02241	932596	07-Jun-1993
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LTR

LMB PCT

Status: PENDING

Remarks: Response to Office Action due by 5.23.99.

02-Jan-1999	Foreign Filing Reminder	02-Jul-1998	Foreign Filing	03022-8005	US	RBM	03022		02-Jul-1998
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Due Date

Status: Pending

02-Jan-1999	Foreign Filing Reminder	02-Jul-1998	Foreign Filing	03022-8006	US	RBM	03022		02-Jul-1998
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Due Date

Status: Pending

02-Jan-1999	3 MON RESPONSE	02-Oct-1998	US-3MON.	03213-8007	US	EME	03213	09/041758	13-Mar-1998
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Due Date

Status: Pending

✓ EXT 2/2/99

✓ Neg. ✓

Wednesday, December 30, 1998

Due Date List By Date

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From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
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02-Jan-1999	ISSUE FEE DUE	07-Oct-1998	US-Allowance	07134-6019	US	SNK	07134	08/708772	06-Sep-1996
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Due Date

Status: PENDING

02-Jan-1999	N/A E-3	02-Jul-1998	NOT. OF APPEAL	07292-6002	US	DHG	07292	08/653410	24-May-1996
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Final

Status: PENDING

*New Action
Final Received*

02-Jan-1999	6 MON FINAL	02-Jul-1998	US-3MON.	07348-6030	US	EME	07348	08/715485	18-Sep-1996
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Final

Status: PENDING

✓ f 12/31

02-Jan-1999	3 MON RESPONSE	02-Oct-1998	US-3MON.	07348-7009	US	DHG	07348	08/833173	04-Apr-1997
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Due Date

Status: PENDING

f 12/31

02-Jan-1999	REQUEST RECONS.	02-Dec-1998	RECONSIDERATI	07348-7049	US	CMM	07348	08/930602	10-Oct-1997
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Reminder

Status: PENDING

f 12/14 ✓

Wednesday, December 30, 1998

Due Date List By Date

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From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
02-Jan-1999	Information Disclosure Stmt Due Date	02-Oct-1998	Information Disclosure Stmt	07400-8024	US	DTN	07400	09/165284	02-Oct-1998
Status:	Pending						ORD		

02-Jan-1999	AMENDMENTS DUE	03-Nov-1998	ARTICLE 19	08061-8006	WO	RBM	08061	US98/13591	09-Jul-1998
Status:	Final					LMB	ORD		
Status:	Pending								
Remarks:	Article 19 amendments are due at the IB by 1.3.99.								

02-Jan-1999	11 MONTH REMINDER	02-Feb-1998	FOREIGN FILING- PROVISIONAL	08172-8009	US	DHG	08172		02-Feb-1998
Status:	Reminder						PRO		
Status:	Pending								

02-Jan-1999	Filing Due	02-Feb-1998	File Application	08172-8009	US	DHG	08172		02-Feb-1998
Status:	Final						PRO		
Status:	Pending								

02-Jan-1999	FILE COMP APPLN- Reminder	02-Feb-1998	COMPLETE PROV APPLN.	08172-8009	US	DHG	08172		02-Feb-1998
Status:	Pending						PRO		

Wednesday, December 30, 1998

Due Date List By Date

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From 01-Jan-1999 To 03-Jan-1999

Due date	Reason for Date/ Date Type	Action Base Date	Action Type	Case Number	Country	Attorney	Client/ Case Type	Application Number	Filing Date
02-Jan-1999	Filing Due Final	02-Feb-1998	File Application	08228-8002	US	DHG	08228 PRO	60/073366	02-Feb-1998
Status:	Pending								
02-Jan-1999	FILE COMP APPLN- Reminder	02-Feb-1998	COMPLETE PROV APPLN	08228-8002	US	DHG	08228 PRO	60/073366	02-Feb-1998
Status:	Pending								
02-Jan-1999	DRAWINGS DUE Due Date	02-Nov-1998	DRAWINGS DUE	08230-7002	US	DHG	08230 ORD	08/702561	11-Sep-1996
Status:	PENDING								
02-Jan-1999	FILE APPLN. Final	14-Dec-1998	NEW APPLICATION	08329-8002	US	RBM	08329 ORD		
Status:	Unfiled								
03-Jan-1999	FAX-ISSUE FEE Reminder	13-Oct-1998	US-Allowance	00518-6012	US	JLH	00518 ORD	08/801925	14-Feb-1997
Status:	PENDING								

1/2

Date: January 2, 1999 (Saturday)

ATTY.	CLIENT/ MATTER NO.	SERIAL NUMBER	INVENTOR/MARK	ACTION/RESPONSE
MCK	P564-7003	08/716,188	Wienhues	Amdt. F 12/31
DHG	P7348-7009	08/833,173	Shimizu	Amdt. F 12/31
JLH	P514-7002	08/716,839	Connolly	Amdt. 2/2
RJB	P1614-7102	08/998,868	Nager	Amdt. Aband
DTN	P7349-7006	08/919,795	KUZUTA	Amdt. F12/23
EME	P3213-8007	09/044,758	Hashimoto	Amdt. 2/2
DHG	P353-6037	08/708,098	Azegami	Amdt. 2/2
GEO	P7392-7002	08/872,388	Mingishi	Issue Fee F11/16
EME	P21-7052	08/956,080	Kawahara	Issue Fee 1/4
GEO	P21-8003	09/046,292	NARAYAMA	Issue Fee F12/14
SNK	P7134-6019	08/709,572	Mochizuki	Issue Fee F12/31
MCK	P1614-5018	08/454,186	Michaelis	Issue Fee 1/5
RBM	P1204-8010	09/121,130	Shima	Issue Fee F12/31
DHG	P353-7039	08/916,575	Takehana	Drawings Due F12/14
DHG	P8230-7002	08/703,561	Jokinen	Drawings Due 1/22
RJB	P21-4049	08/901,940	Ohwe	Final Amdt. E F12/31
RJB	P21-4049	08/901,940	Ohwe	Not. of Appeal E 2/2
EME	P3213-7018	08/951,520	Kawamura	Amdt. E-T F12/11
GEO	P734-6001	08/726,299	Mori	Amdt. E-T F12/19
DHG	P7392-6002	08/653,410	Takechi	Not. of Appeal E-3
MCK	P1614-7088	08/913,877	Tsakalidis	Amdt. E-3 F1/4
DNE	P7348-6030	08/715,485	Horikuchi	Amdt. E-3 F12/31
JLH	P518-7005	08/840,071	Ellis	Amdt. E-3 F1/4
KW	P1614-7023	08/876,303	Hartley	Amdt. E-3 F12/31
RBM	P8321-8002		Zhao, et al	New Apph - Fina 1/4

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